

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Larry D. Outler,

Plaintiff,

VS.

Shannon Davis, Correction Officer,

Defendant.

C/A No.: 1:15-2412-BHH

ORDER AND OPINION

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Shiva V. Hodges made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On March 23, 2016, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that this case be dismissed with prejudice for failure to prosecute. (ECF No. 45.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

Plaintiff filed an objection on April 4, 2016, stating that he responded to Defendant's motion to dismiss before March 2, 2016. (ECF No. 47.) However, the Court could not find anything in the record to indicate that Plaintiff's response was filed with

the Court. By text order, the Court granted Plaintiff an additional thirty days to file a response to the motion to dismiss. (ECF No. 48.)

Plaintiff filed no response or additional objections and the time for doing so expired on May 13, 2016. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no response or additional objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff's claims against Defendant should be dismissed for failure to prosecute. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED with prejudice.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

June 1, 2016
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.